

**REGULATIONS FOR IMPLEMENTATION OF THE  
NORTHERN DISTRICT'S CRIMINAL JUSTICE ACT PLAN**

The Criminal Justice Act Administration Committee for the Northern District of California adopts the following regulations for implementation of the provisions of this district's Criminal Justice Act Plan.

A. Meetings. The Administration Committee shall meet at such time and place as its Chair directs.

B. Quorum and Voting. Six members shall constitute a quorum for a meeting. A majority of the entire Committee is required to enact, amend, or delete a regulation. A majority of members present is sufficient for passage of all other matters.

C. Terms of Committee Members. The district judge members of the Administration Committee shall serve at the pleasure of the Chief Judge but no longer than five years. The Federal Public Defender and the Clerk of the Court shall serve ex officio. All other members shall serve a three-year term and may be reappointed for a successive term.

D. Composition of Standing Sub-Committees. The Standing Appointments Sub-committees for San Francisco/Oakland and for San Jose shall each at least consist of one district judge, one magistrate-judge, two experienced criminal attorneys with prior panel experience, and the Federal Public Defender. With the exception of the Federal Public Defender, members of each sub-committee shall have their chambers or principal place of business in the geographic area served by that sub-committee. At least one attorney member shall be from each division served by the San Francisco/Oakland panel.

The Standing Appointments Appeals Sub-committee shall at least consist of one district judge, two experienced criminal attorneys with prior panel and appellate experience and the Federal Public Defender.

The Chair of the Administration Committee shall select the members and chair of each sub-committee. Members shall serve terms of three years and may be reappointed for a successive term. The Chair of the Administration Committee may appoint additional members as is

necessary for such terms as the chair deems appropriate but no longer than three years.

E. Terms for Panel Members. New panel members selected will serve for a three-year term. Oakland/San Francisco panel members seeking to be reappointed to the panel must wait one year from the expiration of their term before being considered for reappointment. Panel members on the San Jose and Appellate Panels will serve for the same terms, with the exception that they need not wait one year before seeking reappointment for an additional term.

An attorney may be member of both a Trial Panel and the Appellate Panel at the same time. However, an attorney may not be a member of both trial panels simultaneously. For example, if an attorney is accepted as a member of the San Jose division panel during the "fallow" year when that attorney is ineligible for membership on the Oakland/San Francisco panel and then is accepted the following year for membership on the Oakland/San Francisco panel, he or she will have to elect on which panel to serve. Of course, all appointments made prior to the election will continue until cases are completely closed.

F. Qualifications for Panel Members. Applicants must have their principal place of business in the Northern District of California and have demonstrated experience in, and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the Federal Sentencing Guidelines, and, in the absence of unusual circumstances, shall have the following qualifications:

1. At least five years criminal practice in state or federal court, or three years of experience as an Assistant United States Attorney or Assistant Federal Public Defender.

2. In the case of the trial panels, five federal or state felony jury trials or any combination thereof. Any panel member who has not tried two federal criminal jury trials must audit two pre-trial proceedings including motions hearings, two sentencing hearings and two jury trials in federal criminal cases pursuant to the mentor program established under this plan or its equivalent before being appointed to a case.

3. In the case of the appellate panel, ten federal or state felony appeals or combination thereof. Five of the required

appeals may be replaced with equivalent experience such as criminal trials, habeas corpus proceedings, or complex criminal or civil matters settled short of trial.

G. Mandatory Continuing Legal Education. Each panel member shall annually attend at his or her own expense five hours of continuing legal education specifically concerning federal criminal practice and shall so certify by December 1st of each year to the Federal Public Defender on forms available at that office. These five hours of CLE may be satisfied by programs which are also used to satisfy State Bar CLE requirements.

H. Mentor Program. If requested by the Federal Public Defender, a trial panel member shall serve as a mentor to a new panel attorney who has not tried two federal criminal jury trials. To fulfill this requirement, the trial panel member shall allow the new panel attorney to audit all aspects of a federal criminal case, including client conferences, strategy determination, motion and trial preparation and court appearances. Panel members are expected to agree to reasonable mentoring requests and endeavor to involve the new panel attorney as closely as possible with the substance of the representation. The Federal Public Defender shall establish standards for and administer this program.

I. Mandatory Removal. Any member whose right to practice law in this district or state has been suspended or revoked shall be removed from the panel. Any member who refuses to accept an appointment on three occasions in one year shall be removed from the panel. Inability to accept an appointment because of an ethical conflict is not a refusal. Removal for these reasons is automatic and the procedures listed in section K do not apply.

A panel member may reapply for panel membership after waiting one year. Panel members may take a leave of absence without losing their panel membership provided the leave of absence exceeds three months.

J. Discretionary Removal. A panel member may be removed from the panel for failure to represent his or her client in a vigorous, professional and ethical way. A person so removed may apply for readmission to the panel after waiting one year.

K. Removal Procedures. Any person who believes that a panel member is incompetent, engaged in misconduct or other unprofessional

behavior, or has neglected his duties to his/her client to the extent that removal from the panel is warranted may file a complaint. Complaints should be filed promptly so that fair consideration of the facts is possible. A complaint may be dismissed when the passage of time renders the facts incapable of being established through investigation.

The following procedures should be followed:

1. A letter describing the circumstances of the complaint should be addressed to the Chair of the Administration Committee. If it is addressed to a member of the Court or another member of the Administration Committee it shall be referred to the Chair.

2. The letter of complaint should set forth with particularity the facts that the claim of misconduct, incompetency, or neglect of duty is based on. The statement should not be longer than five pages (five sides) and the paper should be 8 1/2 x 11 inches in size. Normally, the statement of facts will include:

- a. a statement of what occurred;
- b. the time and place of the occurrence(s);
- c. any other information that would assist an investigator in checking the facts, such as the presence of witnesses and their names and addresses.

3. The letter of complaint should be typewritten if possible.

4. Documents that demonstrate incompetency, misconduct or other unprofessional behavior, or neglect of duty should accompany the letter.

5. The letter of complaint must be signed and the complainant's address and day time telephone number must be provided. If an anonymous complaint is received, the Administration Committee may pursue a response it feels is appropriate. The panel member who is the subject of the complaint shall be advised of its nature unless it relates to criminal activity, the investigation of which would be jeopardized by disclosure.

6. Within 30 working days of receipt of the complaint by

the Chair of the Administration Committee, the Chair will dismiss the complaint:

- a. if it pertains to a question of representation resolvable by a court of law, or if available alternative procedural remedies have not been exhausted;
- b. if the complaint is frivolous;
- c. if the complaint is not based upon allegations of incompetence, misconduct or unprofessional behavior, or neglect of duty.

When a complaint is dismissed, the subject panel member will receive a copy of the complaint with a written statement from the Chair dismissing it.

7. Within 30 working days of the date of the receipt of the complaint, the Chair will recommend to members of the Administration Committee that a complaint has been filed which merits investigation.

8. Should the members of the Administration Committee agree to investigate the complaint, a copy of the complaint shall be furnished to the panel member, unless it relates to criminal activity, the investigation of which would be jeopardized by disclosure. The Administration Committee will ask the panel member to formally respond to the allegations of the complaint in a letter to the Administration Committee within 15 working days of the date he or she receives the complaint.

9. The Administration Committee may undertake any investigation necessary to resolve the matter or may appoint a sub-committee to do so. Either committee may interview the complainant, the panel member and any witnesses. At the conclusion of the investigation, the Administration Committee will give the panel member an opportunity to respond to the results.

10. Within 180 days of the receipt of the complaint, the Administration Committee will dismiss the complaint if its allegations are unfounded or, if true, of a nature not serious enough to warrant removal of the panel member or if it has taken no action. If the Administration Committee finds the allegations are true and that they warrant removal, the Chair will notify the panel member in writing of his/her removal from the panel.

11. The original complaint and all papers, records and reports will be kept in confidential files by the Clerk of the Court.

12. The Chair of the Administration Committee may extend a deadline for good cause.

13. The entire complaint process shall not be made public until the formal action of the Chair of the Administration Committee to dismiss the complaint or the formal action of the Administration Committee to remove the panel member.

L. Compensation. No claim for compensation or reimbursement will be honored unless filed within forty-five (45) days of the termination of the representation unless good cause is shown.